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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,446	05/28/2002	Andrew D. Murdin	032931/0251	7038

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EXAMINER

BASKAR, PADMAVATHI

ART UNIT PAPER NUMBER

1645

DATE MAILED: 02/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/830,446

Applicant(s)

MURDIN ET AL.

Examiner

Padmavathi v Baskar

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 25-63 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 6) ☐ Other: \_\_\_\_\_

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### RESTRICTION

1 Applicants amendment filed on 4/27/01 has been entered. Claims 1-24 have been canceled. Claims 25-63 have been entered. Claims 25-63 are pending in the application.

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 25-43, 49 drawn to DNA, vaccine, vector, and host cell, a method of making polypeptide. Further restriction to one SEQ.ID.NO required (see Para # 4).

Group II, claims 44-48, 51-58 and 62 drawn to polypeptide, fusion protein, vaccine, a pharmaceutical composition.

Further restriction to one SEQ.ID.NO required (see paragraph # 4).

Group III, claims 50, 59, drawn to an antibody, a therapeutic composition.

Further restriction to one SEQ.ID.NO required (see paragraph # 4).

Group IV, Claim 60, drawn to a method for preventing Chlamydia infection using nucleic acid or polypeptide or antibody.

Further restriction to one SEQ.ID.NO required (see paragraph # 4).

Group V, claims 61 and 62 drawn to a method for detecting Chlamydia infection using peptide, antibody or nucleic acid.

Further restriction to one SEQ.ID.NO required (see paragraph # 4).

Group VI, claim 63 drawn to a method for identifying a polypeptide, which induces an immune response using polypeptide.

Further restriction to one SEQ.ID.NO required (see paragraph # 4).

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3. The inventions listed as Groups I-VI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special feature technical features for the following reasons:

The technical feature of linking groups appears to be that they are all related to peptides, nucleic acids and antibodies and methods of using peptides, nucleic acids and antibodies. However, Griffais R discloses a nucleic acid, which encodes a polypeptide and an immunogenic fragment comprising 12 consecutive amino acids (see the enclosed sequence alignment of the claimed nucleic acid which encodes a polypeptide with the prior art sequence. Therefore, the technical feature of linking groups I-VI does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art and hence unity of invention is lacking.

The special technical feature of Group I is considered to be polynucleotide, which is made up of nucleic acids.

The special technical feature of Group II is considered to be polypeptide that shares no common structure, property and function with Group I since peptides contain amino acids and do not share the same or a corresponding technical feature with Group I.

The special technical feature of Group III considered to be antibody that shares no common structure, property and function from Inventions I-II since it has an inherent affinity, avidity, and specificity that DNA or a simple protein is not capable of expressing and do not require each other for their practice.

Since the special technical feature of the Group I invention is not present in the Group II-III claims, and the special technical features of the Group II-III inventions are not present in the Group I claims, unity of invention is lacking.

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The technical feature linking Groups IV-VI is considered to be methods utilizing products that share no common structure, property and function and methods of using products so as to form a single general inventive concept under Rule 13.1. Hence, unity is lacking among groups IV-VI.

Accordingly, Groups I-VI are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

#### **DISTINCT INVENTIONS**

4. For each group of inventions I-V above, restriction to one of the following SEQ.ID.NO is also required under 35 U.S.C. 121 and 372. Therefore, election is required of one of inventions I-VI and one of SEQ ID NO: 1 - 45

Inventions SEQ ID NO: 1 - SEQ ID NO: 45 are not so linked as to under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The claimed peptides SEQ.ID.NO 27-45 and nucleic acid molecules SEQ.ID.NOS: 1-26 share no common special technical feature because the peptides and nucleic acid molecules have no common structure (i.e., no common sequence), property and function.

SEQ.ID.NOS: 27-45 and 1-26 represent sequences that share no common structure as polypeptides and the polynucleotides encoding them are not linked by the same the same or a corresponding special technical feature as to form a single general inventive concept.

Therefore, where structural identity is required, such as for hybridization or expression of protein or binding of antibody, each sequence appears perform a different function in that peptides elicit an antibody response and nucleic acids encode peptides that specifically bind to an antibody. Thus they share no common structure and function so as to form a single general inventive concept under Rule 13.1. Hence, unity is lacking among groups SEQ.ID.NOS.

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Applicant is required under Restriction is required under 35 U.S.C. 121 and 372 to elect a single disclosed SEQ.ID.NO from any group elected.

5. Applicant is required, in reply to this action, to elect a group and one sequence and identify the SEQ.ID.NO to which the claims shall be restricted. The reply must also identify the claims readable on the elected invention, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Padmavathi v Baskar whose telephone number is (703) 308-8886. The examiner can normally be reached on M-F (6:30A.M-4: 00 P.M.) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (703) 308-3909. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

P. Baskar Ph.D.

1/30/04

  
**LYNETTE R. F. SMITH**  
**SUPERVISORY PATENT EXAMINER**  
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